

AMENDED IN ASSEMBLY JULY 8, 1999

AMENDED IN SENATE APRIL 7, 1999

SENATE BILL

No. 1098

Introduced by Senator Burton

February 26, 1999

An act to amend Section 1954.53 of, and to add Sections 1942.6 and 1954.535 to, the Civil Code, and to amend, repeal, and add Section 12955 of the Government Code, relating to residential real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1098, as amended, Burton. Residential real property: rent control: ~~tenants~~ *tenant* rights: discrimination.

(1) The Costa-Hawkins Rental Housing Act authorizes an owner of residential real property to establish the initial and all subsequent rental rates for a dwelling or a unit if any one of specified facts is true and the initial rental rate for a dwelling or unit where a residential rent control ordinance applies, except where, among other conditions, the previous tenancy has been terminated pursuant to notice by the owner or upon a change in the terms of the tenancy.

This bill would specify that termination or nonrenewal of a specified rent limitation contract with a governmental agency constitutes a ~~termination~~ *change in the terms of the tenancy* for that purpose, and would require 90 days' written notice to the tenant of the termination.

The bill would revise provisions making inapplicable the owner's authority to establish the rental rate when a citation

has been issued for code violations, *and for a 3-year period when an owner terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for a rent limitation, except as specified.*

The bill would provide that a person entering real property during certain hours or circumstances, when invited by the occupant, to provide tenants' rights information or to participate in a specified association, shall not be civilly or criminally liable for trespass.

(2) The Fair Employment and Housing Act prohibits housing discrimination on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

This bill would, until January 1, ~~2002~~—2005, prohibit discrimination under that act on the basis of *a person's source of income*, the failure to account for the aggregate income of coresidents, or the failure to ~~exclude~~—*include* a government rent subsidy in determining the rent to be paid by the tenant for purposes of calculating the minimum income required.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1942.6 is added to the Civil Code,
2 to read:

3 1942.6. Any person entering onto residential real
4 property, upon the invitation of an occupant, during
5 reasonable hours or because of ~~exigent~~ *emergency*
6 circumstances, for the purpose of providing information
7 regarding tenants' rights or to participate in a lessees'
8 association or association of tenants or an association that
9 advocates tenants' rights shall not be liable in any
10 criminal or civil action for trespass.

11 *The Legislature finds and declares that this section is*
12 *declaratory of existing law. Nothing in this section shall be*
13 *construed to enlarge or diminish the rights of any person*
14 *under existing law.*

15 SEC. 2. Section 1954.53 of the Civil Code is amended
16 to read:

1954.53. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial rental rate for a dwelling or unit, except where any of the following applies:

(1) The previous tenancy has been terminated by the owner by notice pursuant to Section 1946 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827, except a change permitted by law in the amount of rent or fees. For the purpose of this paragraph, the owner's termination or nonrenewal of a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, shall be construed as a ~~termination~~ *change in the terms of the tenancy* pursuant to Section 827.

(A) In a jurisdiction that controls by ordinance or charter provision the rental rate for a dwelling or unit, an owner who terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant shall not be eligible to set an initial rent for three years following the date of the termination or nonrenewal of the contract or agreement. For any new tenancy established during the three-year period, the rental rate for a new tenancy established in that vacated dwelling or unit shall be at the same rate as the rent under the terminated or nonrenewed contract or recorded agreement with a governmental agency that provided for a rent limitation to a qualified tenant, plus any increases authorized after the termination or cancellation of the contract or recorded agreement.

(B) Subparagraph (A) shall not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for

1 *a rent limitation to a qualified tenant as set forth in that*
2 *subparagraph.*

3 (2) The owner has otherwise agreed by contract with
4 a public entity in consideration for a direct financial
5 contribution or any other forms of assistance specified in
6 Chapter 4.3 (commencing with Section 65915) of
7 Division 1 of Title 7 of the Government Code.

8 (3) The initial rental rate for a dwelling or unit whose
9 initial rental rate is controlled by an ordinance or charter
10 provision in effect on January 1, 1995, shall not until
11 January 1, 1999, exceed the amount calculated pursuant
12 to subdivision (c).

13 (b) Subdivision (a) applies to, and includes, renewal of
14 the initial hiring by the same tenant, lessee, authorized
15 subtenant, or authorized sublessee for the entire period
16 of his or her occupancy at the rental rate established for
17 the initial hiring.

18 (c) The rental rate of a dwelling or unit whose initial
19 rental rate is controlled by ordinance or charter provision
20 in effect on January 1, 1995, shall, until January 1, 1999, be
21 established in accordance with this subdivision. Where
22 the previous tenant has voluntarily vacated, abandoned,
23 or been evicted pursuant to paragraph (2) of Section 1161
24 of Code of Civil Procedure, an owner of residential real
25 property may, no more than twice, establish the initial
26 rental rate for a dwelling or unit in an amount that is no
27 greater than 15 percent more than the rental rate in
28 effect for the immediately preceding tenancy or in an
29 amount that is 70 percent of the prevailing market rent
30 for comparable units, whichever amount is greater.

31 The initial rental rate established pursuant to this
32 subdivision shall not be deemed to substitute for or
33 replace increases in rental rates otherwise authorized
34 pursuant to law.

35 (d) (1) Nothing in this section or any other provision
36 of law shall be construed to preclude express
37 establishment in a lease or rental agreement of the rental
38 rates to be applicable in the event the rental unit subject
39 thereto is sublet, and nothing in this section shall be

1 construed to impair the obligations of contracts entered
2 into prior to January 1, 1996.

3 (2) Where the original occupant or occupants who
4 took possession of the dwelling or unit pursuant to the
5 rental agreement with the owner no longer permanently
6 reside there, an owner may increase the rent by any
7 amount allowed by this section to a lawful sublessee or
8 assignee who did not reside at the dwelling or unit prior
9 to January 1, 1996.

10 (3) This subdivision shall not apply to partial changes
11 in occupancy of a dwelling or unit where one or more of
12 the occupants of the premises, pursuant to the agreement
13 with the owner provided for above, remains an occupant
14 in lawful possession of the dwelling or unit, or where a
15 lawful sublessee or assignee who resided at the dwelling
16 or unit prior to January 1, 1996, remains in possession of
17 the dwelling or unit. Nothing contained in this section
18 shall be construed to enlarge or diminish an owner's right
19 to withhold consent to a sublease or assignment.

20 (4) Acceptance of rent by the owner shall not operate
21 as a waiver or otherwise prevent enforcement of a
22 covenant prohibiting sublease or assignment or as a
23 waiver of an owner's rights to establish the initial rental
24 rate unless the owner has received written notice from
25 the tenant that is party to the agreement and thereafter
26 accepted rent.

27 (e) Nothing in this section shall be construed to affect
28 any authority of a public entity that may otherwise exist
29 to regulate or monitor the grounds for eviction.

30 (f) This section shall not apply to any dwelling or unit
31 ~~that if all the following conditions are met:~~

32 (1) ~~The dwelling or unit has been cited in an~~
33 ~~inspection report by the appropriate governmental~~
34 ~~agency as containing serious health, safety, fire, or~~
35 ~~building code violations, as defined by Section 17920.3 of~~
36 ~~the Health and Safety Code, excluding those caused by~~
37 ~~disasters, for which a citation has been issued by the~~
38 ~~appropriate governmental agency and which have~~
39 ~~remained unabated for 60 days, or longer if permitted by~~

~~the appropriate local agency, or longer preceding the vacancy, excluding any violation caused by a disaster.~~

(2) *The citation was issued at least 60 days prior to the date of the vacancy.*

(3) *The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.*

SEC. 3. Section 1954.535 is added to the Civil Code, to read:

1954.535. Where an owner terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for rent limitations to a qualified tenant, the tenant or tenants who were the beneficiaries of the contract or recorded agreement shall be given at least 90 days' written notice of the effective date of the termination and shall not be obligated to pay more than the tenant's portion of the rent, as calculated under the contract or recorded agreement to be terminated, for 90 days following receipt of the notice of termination of nonrenewal of the contract.

SEC. 4. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, *source of income*, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference,

1 limitation, or discrimination based on race, color, religion,
2 sex, marital status, national origin, ancestry, familial
3 status, *source of income*, or disability or an intention to
4 make any such preference, limitation, or discrimination.

5 (d) For any person subject to the provisions of Section
6 51 of the Civil Code, as that section applies to housing
7 accommodations, to discriminate against any person on
8 the basis of sex, color, race, religion, ancestry, national
9 origin, familial status, marital status, disability, *source of*
10 *income*, or on any other basis prohibited by that section.

11 (e) For any person, bank, mortgage company or other
12 financial institution that provides financial assistance for
13 the purchase, organization, or construction of any
14 housing accommodation to discriminate against any
15 person or group of persons because of the race, color,
16 religion, sex, marital status, national origin, ancestry,
17 familial status, *source of income*, or disability in the terms,
18 conditions, or privileges relating to the obtaining or use
19 of that financial assistance.

20 (f) For any owner of housing accommodations to
21 harass, evict, or otherwise discriminate against any
22 person in the sale or rental of housing accommodations
23 when the owner's dominant purpose is retaliation against
24 a person who has opposed practices unlawful under this
25 section, informed law enforcement agencies of practices
26 believed unlawful under this section, has testified or
27 assisted in any proceeding under this part, or has aided or
28 encouraged a person to exercise or enjoy the rights
29 secured by this part. Nothing herein is intended to cause
30 or permit the delay of an unlawful detainer action.

31 (g) For any person to aid, abet, incite, compel, or
32 coerce the doing of any of the acts or practices declared
33 unlawful in this section, or to attempt to do so.

34 (h) For any person, for profit, to induce any person to
35 sell or rent any dwelling by representations regarding the
36 entry or prospective entry into the neighborhood of a
37 person or persons of a particular race, color, religion, sex,
38 marital status, ancestry, disability, *source of income*,
39 familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, *source of income*, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, *source of income*, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, *source of income*, disability, or national origin.

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, *source of income*, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together, ~~or the aggregate income of tenants or prospective tenants and their cosigners or proposed cosigners, on the same basis as the aggregate income of~~ *together, or the aggregate income of their guarantors or proposed guarantors, on the same basis as the aggregate income of* married persons residing together or proposing to reside together.

(n) To use a financial or income standard in the rental of housing based on a multiple or percentage of the rent that, in instances where there is a government rent subsidy, ~~fails to calculate~~ *calculates* the minimum income

1 based only on the portion of the rent to be paid by the
2 tenant.

3 (o) *(1) For the purposes of this section, “source of*
4 *income” means lawful, verifiable income paid directly to*
5 *a tenant or paid to a representative of a tenant.*

6 *(2) For the purposes of this section, it shall not*
7 *constitute discrimination based on source of income to*
8 *make a written or oral inquiry concerning the level or*
9 *source of income.*

10 (p) This section shall remain in effect only until
11 January 1, ~~2002–2005~~, and as of that date is repealed, unless
12 a later enacted statute, that is enacted before January 1,
13 ~~2002–2005~~, deletes or extends that date.

14 SEC. 5. Section 12955 is added to the Government
15 Code, to read:

16 12955. It shall be unlawful:

17 (a) For the owner of any housing accommodation to
18 discriminate against any person because of the race,
19 color, religion, sex, marital status, national origin,
20 ancestry, familial status, or disability of that person.

21 (b) For the owner of any housing accommodation to
22 make or to cause to be made any written or oral inquiry
23 concerning the race, color, religion, sex, marital status,
24 national origin, ancestry, familial status, or disability of
25 any person seeking to purchase, rent or lease any housing
26 accommodation.

27 (c) For any person to make, print, or publish, or cause
28 to be made, printed, or published any notice, statement,
29 or advertisement, with respect to the sale or rental of a
30 housing accommodation that indicates any preference,
31 limitation, or discrimination based on race, color, religion,
32 sex, marital status, national origin, ancestry, familial
33 status, or disability or an intention to make any such
34 preference, limitation, or discrimination.

35 (d) For any person subject to the provisions of Section
36 51 of the Civil Code, as that section applies to housing
37 accommodations, to discriminate against any person on
38 the basis of sex, color, race, religion, ancestry, national
39 origin, familial status, marital status, disability, or on any
40 other basis prohibited by that section.

1 (e) For any person, bank, mortgage company or other
2 financial institution that provides financial assistance for
3 the purchase, organization, or construction of any
4 housing accommodation to discriminate against any
5 person or group of persons because of the race, color,
6 religion, sex, marital status, national origin, ancestry,
7 familial status, or disability in the terms, conditions, or
8 privileges relating to the obtaining or use of that financial
9 assistance.

10 (f) For any owner of housing accommodations to
11 harass, evict, or otherwise discriminate against any
12 person in the sale or rental of housing accommodations
13 when the owner's dominant purpose is retaliation against
14 a person who has opposed practices unlawful under this
15 section, informed law enforcement agencies of practices
16 believed unlawful under this section, has testified or
17 assisted in any proceeding under this part, or has aided or
18 encouraged a person to exercise or enjoy the rights
19 secured by this part. Nothing herein is intended to cause
20 or permit the delay of an unlawful detainer action.

21 (g) For any person to aid, abet, incite, compel, or
22 coerce the doing of any of the acts or practices declared
23 unlawful in this section, or to attempt to do so.

24 (h) For any person, for profit, to induce any person to
25 sell or rent any dwelling by representations regarding the
26 entry or prospective entry into the neighborhood of a
27 person or persons of a particular race, color, religion, sex,
28 marital status, ancestry, disability, familial status, or
29 national origin.

30 (i) For any person or other organization or entity
31 whose business involves real estate-related transactions to
32 discriminate against any person in making available a
33 transaction, or in the terms and conditions of a
34 transaction, because of race, color, religion, sex, marital
35 status, national origin, ancestry, familial status, or
36 disability.

37 (j) To deny a person access to, or membership or
38 participation in, a multiple listing service, real estate
39 brokerage organization, or other service because of race,



1 color, religion, sex, marital status, ancestry, disability,
2 familial status, or national origin.

3 (k) To otherwise make unavailable or deny a dwelling
4 based on discrimination because of race, color, religion,
5 sex, familial status, disability, or national origin.

6 (l) To discriminate through public or private land use
7 practices, decisions, and authorizations because of race,
8 color, religion, sex, familial status, marital status,
9 disability, national origin, or ancestry. Discrimination
10 includes, but is not limited to, restrictive covenants,
11 zoning laws, denials of use permits, and other actions
12 authorized under the Planning and Zoning Law (Title 7
13 (commencing with Section 65000)), that make housing
14 opportunities unavailable.

15 (m) This section shall become operative on January 1,
16 ~~2002-2005~~.

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18 CORRECTIONS

19 **Text — Page 7.**

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